

File: 32768
Upper Penitencia Creek

July 19, 2013

Mr. John Davidson, Senior Planner
Department of Planning, Building and Code Enforcement
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

Subject: PDC12-010, Sabatino Rezoning, Public Notice of Intent to Adopt a Mitigated Negative Declaration

Dear Mr. Davidson:

Thank you for opportunity to provide input to the subject document. The Water District would like to offer two comments on the document itself, and a recommendation to address current conditions of the creek channel, which could pose threats of flooding at the site.

Page	Original text	District Comments
23	The on-site reach of the creek is a manipulated channel with no deep pools, with a significant portion of the creek banks lined with cement.	While a few patches of the creek bank are lined, this reach has significant streamside vegetation/habitat, and does have a deep pool created by a fallen tree and sediment bar. The environmental assessment should not characterize the creek as one of minimal or degraded habitat. It is a living stream.
25	At a minimum the following number of plants should be planted: o 15 trees: 10 to 15-gallon size trees such as red willow, toyon, valley oak, etc.	Please be informed that getting 10 to 15-gallon size trees such as red willow, toyon, valley oak, etc. from the same watershed would be difficult, we suggest the city require replacement trees from the same watershed, even it means smaller tree sizes.

Water District maintenance crews are aware of severe constrictions, sediment bars, debris, and bank erosion along the stretch of creek in the subject property caused by falling trees with tree trunks as large as 30 inch in diameter. This includes a large tree bridging the creek with branches anchoring on the streambed. These constrictions may exacerbate bank erosion, potentially creating failure or overtopping of the berm along the bank. The Water District recommends these tree trunks be removed in consultation with regulatory agencies (California Department of Fish and Wildlife). Included are pictures depicting the current conditions in Attachment 1. These photos serve as the reminder about the need for on-going maintenance of the creek.

Mr. John Davidson

Page 2

July 19, 2013

As indicated in our May 19, 2013 letter, to remove this site from the 100-year floodplain the City must submit a Letter of Map Revision (LOMR) to FEMA. We defer to the City's floodplain administrator to condition the project consistent with City's Special Flood Hazard Area Regulations in advance of BART's regional studies and the completion of the Upper Penitencia Flood protection project. The city is also encouraged to find ways to get additional natural function credits under National Flood Insurance Program's revised Community Rating System criteria, as the 2013 revision double or tripled these credits for preserving natural functions.

In the May 19 letter we also requested that land rights along the creek be dedicated to the Water District to allow access to remove sediment as needed, maintain the low flow channel and preserve the stream function in addition to any work required to make repairs resulting from flood events.

The Water District would like to further discuss the project conditions, if any, for planting within the riparian corridor setback in conjunction with our request for the dedication of land rights. Simultaneously, the District continues to work with the Army Corps on the design alternatives for the Upper Penitencia Creek Flood Protection Project, which will also guide the extent and type of land rights of our request.

Please reference File No. 32768 on further correspondence regarding the project and include us in the notification list for this project. If you should have any further questions, please give me a call at (408) 630-2468 or email me at syoung@valleywater.org.

Sincerely,

for Sue Tippetts

Sarah Young, CFM
Senior Project Manager
Community Projects Review Unit

cc:

Ms. Maria Angeles, Development Services, Department of Public Works
City of San Jose (maria.angeles@sanjoseca.gov)
Sarah Owen, FEMA Region IX (Sarah.Owen@dhs.gov)
Ray Lee, CA Department of Water Resources (rlee@water.ca.gov)
Sarah A. Fleming, AICP, Planner II, City of San Jose (sarah.fleming@sanjoseca.gov)
Allen Baquilar, Associate Engineer, City of San Jose, (allen.baquilar@sanjoseca.gov)

C. Elias, L. Lee, S. Tippetts, S. Yung, L. Xu, D. Cheong, R. Blank,
K. O'Kane, File

32768_55519shy07-19

Attachment 1. Photos from the Creek



Streamside vegetation (July 16, 2013)



Vegetation growth, more debris (July 16, 2013) Flow not constricted when the tree just fell in March 2013



Fallen trees trapping debris (July 16, 2013)